

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TENNESSEE AT KNOXVILLE**

PROIMAGE WHOLESALE SIGNS, LLC)
)
)
Plaintiff,)
)
)
v.) **No. _____**
)
)
BURTON SIGNWORKS, INC.)
)
)
Defendant.)

COMPLAINT

Comes the Plaintiff, ProImage Wholesale Signs, LLC, by and through counsel, pursuant to 28 U.S.C. §§ 1332 and 1391(b)(2), and would state its complaint for damages for breach of contract against Defendant Burton Signworks, Inc. (“Burton Signworks”) as follows:

1. Plaintiff ProImage Wholesale Signs, LLC (“ProImage”) is a Kansas Limited Liability Company, registered to do business in the state of Tennessee with its principal place of business in Wichita, Kansas.
2. ProImage has a manufacturing facility located in Jacksboro, Tennessee at 242 Industrial Parkway, Jacksboro, Tennessee, 37757.
3. Defendant Burton Signworks, Inc. (“Burton Signworks”) is a North Carolina Corporation, registered to do business in the state of Tennessee. It may be served with process through its registered agent, Incorp Services, Inc., located at 216 Centerview Dr., Suite 317, Brentwood, Tennessee, 37027.

JURISDICTION

4. Because diversity of citizenship exists between the parties and because the amount in controversy exceeds \$75,000.00, jurisdiction is appropriate in this Court pursuant to 28 U.S.C. § 1332.

VENUE

5. Because a substantial amount of events giving rise to the underlying basis for the claims asserted by ProImage against Burton Signworks stem from wholesale signs and materials purchased from ProImage's manufacturing facility in Jacksboro, Tennessee, venue in this Court is appropriate pursuant to 28 U.S.C § 1331(b)(2).

FACTS

6. ProImage is a sign manufacturing company that provides wholesale signs and materials to commercial customers, with its Tennessee manufacturing facility located in Jacksboro, Tennessee.

7. Burton Signworks is a sign manufacturer and installation company, providing commercial signs to customers across the eastern United States.

Purchase Order No. 016619

8. On or about August 18, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order #016619, attached as Exhibit A.

9. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 016619 and invoiced Burton Signworks on October 20, 2015. *See* Invoice # 103343-B, attached as Exhibit A-1.

10. It was not until March 30, 2016 that Burton Signworks paid a portion of Invoice #103343-B.

11. The unpaid balance remaining that is owed to ProImage for Invoice #103343-B is \$1,026.51.

Purchase Order No. 016621

12. On or about August 18, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order #016621, attached as Exhibit B.

13. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 106621 and invoiced Burton Signworks on October 20, 2015. *See* Invoice # 103342-B, attached as Exhibit B-1.

14. It was not until February 22, 2016 that Burton Signworks paid a portion of Invoice # 103342-B.

15. The unpaid balance remaining that is owed to ProImage for Invoice #103342-B is \$1,782.96.

Purchase Order No. 016622

16. On or about August 18, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 016622, attached as Exhibit C.

17. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 016622 and invoiced Burton Signworks on November 9, 2015. *See* Invoice # 103408, attached as Exhibit C-1.

18. To date, Burton Signworks has not paid Invoice # 103408, leaving an outstanding balance owed to ProImage of \$6,660.50.

Purchase Order No. 016623

19. On or about August 18, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 016623, attached as Exhibit D.

20. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 016623 and invoiced Burton Signworks on November 9, 2015. *See* Invoice # 103407, attached as Exhibit D-1.

21. To date, Burton Signworks has not paid Invoice # 103407, leaving an outstanding balance owed to ProImage of \$11,980.57.

Purchase Order No. 016678

22. On or about August 24, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 016678, attached as Exhibit E.

23. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 016678 and invoiced Burton Signworks on October 30, 2015. *See* Invoice # 103373-B, attached as Exhibit E-1.

24. It was not until February 16, 2016 that Burton Signworks paid a portion of Invoice # 103373-B.

25. The unpaid balance remaining that is owed to ProImage for Invoice # 103373-B is \$1,153.50.

Purchase Order No. 016865

26. On or about September 2, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 016865, attached as Exhibit F.

27. That same day, Purchase Order # 016865 was modified over the phone to include the price of “30” B& FACE – WHITE FACE AND BURGANDY JEWELITE” for a cost of \$130.00, as well as the additional shipping cost of \$1,485.00. *See* Revised Purchase Order # 016865, attached as Exhibit F-1.

28. ProImage shipped a portion of the order pursuant to Revised Purchase Order # 016865 and invoiced Burton Signworks on October 30, 2015. *See* Invoice # 103382-B, attached as Exhibit F-2.

29. ProImage shipped the remaining portion of the order pursuant to Revised Purchase Order # 016865 and invoiced Burton Signworks on November 24, 2015. *See* Invoice # 103425, attached as Exhibit F-3.

30. To date, Burton Signworks has not paid Invoice # 103382-B, leaving an outstanding balance owed to ProImage of \$100,719.00.

31. To date, Burton Signworks has not paid Invoice # 103425, leaving an outstanding balance owed to ProImage of \$1,695.00.

Purchase Order No. 017124

32. On or about September 25, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 017124, attached as Exhibit G.

33. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 017124 and invoiced Burton Signworks on November 6, 2015. *See* Invoice # 103389, attached as Exhibit G-1.

34. To date, Burton Signworks has not paid Invoice # 103389, leaving an outstanding balance owed to ProImage of \$9,858.45.

Purchase Order No. 017129

35. On or about September 25, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 017129, attached as Exhibit H.

36. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 017129 and invoiced Burton Signworks on October 30, 2015. *See* Invoice # 103380, attached as Exhibit H-1.

37. To date, Burton Signworks has not paid Invoice # 103380, leaving an outstanding balance owed to ProImage of \$11,586.16.

Purchase Order No. 017141

38. On or about September 28, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 017141, attached as Exhibit I.

39. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 017141 and invoiced Burton Signworks on November 24, 2015. *See* Invoice # 103422, attached as Exhibit I-1.

40. To date, Burton Signworks has not paid Invoice # 103422, leaving an outstanding balance owed to ProImage of \$17,993.12.

Purchase Order No. 017175

41. On or about October 1, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 017175, attached as Exhibit J.

42. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 017177 and invoiced Burton Signworks on November 12, 2015. *See* Invoice # 103413, attached as Exhibit J-1.

43. To date, Burton Signworks has not paid Invoice # 103412, leaving an outstanding balance owed to ProImage of \$11,887.52.

Purchase Order No. 017177

44. On or about October 1, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 017177, attached as Exhibit K.

45. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 017177 and invoiced Burton Signworks on November 12, 2015. *See* Invoice # 103412, attached as Exhibit K-1.

46. To date, Burton Signworks has not paid Invoice # 103412, leaving an outstanding balance owed to ProImage of \$8,204.79.

Purchase Order No. 017190

47. On or about October 6, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 017190, attached as Exhibit L.

48. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 017190 and invoiced Burton Signworks on October 13, 2015. *See* Invoice # 103326, attached as Exhibit L-1.

49. It was not until February 22, 2016 that Burton Signworks paid a portion of Invoice # 103326.

50. The unpaid balance remaining that is owed to ProImage for Invoice # 103326 is \$399.93.

Purchase Order No. 017213

51. On or about October 6, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 017213, attached as Exhibit M.

52. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 017213 and invoiced Burton Signworks on October 30, 2015. *See* Invoice # 103379, attached as Exhibit M-1.

53. To date, Burton Signworks has not paid Invoice # 103379, leaving an outstanding balance owed to ProImage of \$27,818.00.

Purchase Order No. 017260

54. On or about October 12, 2015, Burton Signworks contracted with ProImage for the purchase of wholesale signs and materials. *See* Purchase Order # 017260, attached as Exhibit N.

55. ProImage shipped the wholesale signs and materials pursuant to Purchase Order # 017260 and invoiced Burton Signworks on November 16, 2015. *See* Invoice # 103415, attached as Exhibit N-1.

56. To date, Burton Signworks has not paid Invoice # 103415, leaving an outstanding balance owed to ProImage of \$10,921.01.

57. All payments due ProImage from Burton Signworks were due at ProImage's offices in Jacksboro, Tennessee.

BREACH OF CONTRACT

58. The Purchase Orders attached as Exhibits A through N are valid, legal, and enforceable contracts between Burton Signworks and ProImage.

59. By failing to pay or fully pay the invoices A-1 through N-1, Burton Signworks has breached its contracts with ProImage.

60. As a result of Burton Signworks' breach of contract with ProImage, ProImage has suffered damages in the amount of \$219,324.14 for unpaid invoices, and \$4,362.90 for partially paid invoices, for a total of \$223,687.04.

61. Additionally, as a result of Burton Signworks' breach of contract with ProImage, ProImage is entitled to interest on its damages in the amount of one and one-half percent (1.5%) per month for invoices outstanding in excess of thirty (30) days, pursuant to the quotes submitted by ProImage to Burton Signworks for each Purchase Order. An Exemplar of Terms and Agreements incorporated into each quote is attached as Exhibit O.

62. ProImage is further entitled to recovery of attorney's fees in the amount of twenty percent (20%) of the damages pursuant to the quotes submitted by ProImage to Burton Signworks as a result of Burton Signworks' breach of contract. *Id.*

PRAYERS FOR RELIEF

WHEREFORE, Premises Considered, Plaintiff prays:

63. That proper process issue and the Defendant be served as set forth above, and that the Defendant be required to appear and answer fully and truthfully Plaintiff's Complaint.

64. That Plaintiff be awarded damages in the amount of \$223,687.04, plus interest in the amount of \$14,982.02, as provided for in the Purchase Orders attached as Exhibits A-N.

65. That Plaintiff be awarded pre-judgment interest accruing in the amount of one and one-half percent (1.5%) per month, or \$108.16 per day, on the balance of the unpaid invoices from the date of the filing of this Complaint, as provided for in Purchase Orders attached as Exhibits A-N.

66. That Plaintiff be awarded pre-judgment interest accruing in the amount of one and one-half percent (1.5%) per month, or \$2.15 per day, on the balance of the partially paid invoices

from the date of the filing of this Complaint, as provided for in Purchase Orders attached as Exhibits A-N.

67. That Plaintiff be awarded attorney's fees in the amount of twenty percent (20 %) of the amount of damages awarded, as provided for in all ProImage Quotes provided to Burton Signworks.

68. That Plaintiff have and recover such other costs and fees associated with the bringing of this matter, and any additional damages in law or in equity to which this Court deems Plaintiff is entitled.

Respectfully submitted this 3rd day of May, 2016.

s/ R. Loy Waldrop, Jr.

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